

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

ARB-116-2015 (O&M)

Date of decision:- 29.01.2016

Sarswati Builders

...Petitioner

Versus

Union of India and others

...Respondents

CORAM: HON'BLE MR. JUSTICE S.J. VAZIFDAR, ACTING CHIEF JUSTICE

Present: Mr. Anupam Singla, Advocate,
for the petitioner.

Mr. M.S. Sodhi, Advocate,
for Dr. Ashwinie Kumar Bansal, Advocate,
for respondent No. 1 – UOI.

Mr. Ashish Kapoor, Advocate,
for respondents No. 2 and 3.

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S.J. VAZIFDAR, A.C.J. (ORAL)

This is a petition for the appointment of an arbitrator.

2. The parties had entered into an agreement which involved certain construction work. The disputes and differences arose between the parties. The petitioner invoked the arbitration clause on 04.03.2014. The respondents rely upon a no due certificate whereunder the petitioner allegedly accepted an amount in full and final satisfaction. The petitioner has disputed the validity of this certificate including on the ground that it was signed under undue influence. Admittedly, the no due certificate is after the arbitration clause was invoked. This is not an open and shut case of the petitioner having given up its claims other than those recorded in the alleged certificate. The original certificate has not been produced by the respondents.

3. The arbitration clause in so far as it relates to the petitioner's claim, which is less than Rs. 10 lacs, reads as under:-

“64(3)(a)(i) – In cases where the total value of claims in question added together does not exceed Rs. 10,00,000/- (rupees ten lakhs only), the Arbitral Tribunal consist of a sole arbitrator who shall be either the General Manager or a gazetted officer of Railway not below the grade of

JA grade nominated by the General Manager in that behalf. The sole arbitrator shall be appointed within 60 days from the day when a written and valid demand for arbitration is received by Railway.”

4. The respondents have admittedly not appointed an arbitrator to date, although they were called upon to do so by a notice invoking the arbitration dated 04.03.2014.

5. In these circumstances, Mr. B.R. Bansal, a retired Additional District and Sessions Judge, Punjab is appointed as the sole arbitrator.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

29.01.2016
Amodh